

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D. C. 20554

RECEIVED

DEC 19 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
(Atlantic and Glenwood, Iowa))

DOCKET FILE COPY ORIGINAL
94-122
MM Docket No. 93-286
RM-8513

To: The Chief
Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS AND COUNTERPROPOSAL

Wireless Communications Corp. ("Wireless"), by its attorneys and pursuant to Section 1.420(d) of the Commission's Rules, hereby files its Comments and Counterproposal in connection with the above referenced Notice of Proposed Rule Making, wherein the Commission requests comments on the Petition filed by Valley Broadcasting, Inc. ("Valley"), the licensee of Station KXKT(FM), Atlantic, Iowa, to amend the Table of Allotments so that FM Channel 279C is allotted to Glenwood, Iowa, in place of Atlantic, Iowa, and modify the license for Station KXKT(FM) accordingly. In support thereof, Wireless states as follows.

1. Wireless has no objection to the change in the Table of Allotments as proposed by Valley. Under the policies enunciated by the Commission in Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094 (1990) ("Change in Community

No. of Copies rec'd
List A B C D E

024

Proceeding"), Valley is entitled to seek the requested change, as Atlantic would not be without local aural transmission service if the Petition is granted.¹ However, as the Commission indicated in the Change of Community Proceeding, action on the rulemaking petition is subject to an analysis of the "effect of the proposal on existing service to the public..." 5 FCC Rcd at 7097.

2. Wireless agrees that the effect of the proposal on existing service must be considered and, for that reason, it is filing these Comments and Counterproposal. The immediate effect of the change in allotments would be the elimination of the only full-time aural service at Atlantic. While the FM priorities do not deal with the differences in daytime versus full-time local service, and the Commission considers them one and the same for Section 1.420(i) purposes, the impact cannot be ignored. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982); Change in Community Proceeding, supra, 5 FCC Rcd at 7097. As the other local broadcast station, Wireless is particularly aware of the needs and interests in the community.

3. After considering the impact of the requested change in allotment, Wireless submits that Atlantic, a community of more than 7,000 residents, needs and deserves full-time local transmission service. Such a result can be accomplished in the context of this proceeding, while still allowing Valley to achieve what it has requested.

¹ Wireless is the licensee of daytime-only Station KJAN(AM), Atlantic, Iowa, the other aural transmission service licensed to Atlantic.

4. Valley, in Exhibit 1 to its Petition, has shown that five FM channels are available for allotment to Atlantic.² Among these are FM Channel 239, which is available as a Class C3 facility. According to the engineering provided by Valley, and attached hereto as Exhibit A, the allotment can be made to Atlantic without any need for even a site restriction. Wireless has contacted its own engineering consultant who has confirmed that the Class C3 allotment of FM Channel 239 can be made in full compliance with FCC requirements.

5. While it is recognized that "a vacant allotment or unconstructed permit...does not adequately cure the disruption...occasioned by removal of an operating station," Wireless believes that it is the solution to be pursued in this matter. Change in Community Proceeding, supra, 5 FCC Rcd at 7097. The approval of Valley's Petition, as modified by this Counterproposal, effectively serves to provide Glenwood with its first local transmission service and would give Atlantic the two local voices it has had over the years. In fact, the inherent operating limitations of a Class C3 facility should result in the new station being more locally oriented than what is provided by the regional service of the existing Channel 279C facility.

6. Considering these factors, Wireless urges the Commission to approve the Petition filed by Valley, provided that the Commission also amends the Table of Allotments to assign FM Channel

² The Commission makes note of this in footnote 1 to the NPRM and provides no indication that the engineering is in any manner flawed.


239C3 to Atlantic. Should the Commission allot FM Channel 239C3 to Atlantic, Wireless intends to promptly file an application for the new allotment and, if granted, construct the new station.

WHEREFORE, it is respectfully requested that the Commission amend the FM Table of Allotments in the following manner:

<u>City</u>	<u>Present Allotment</u>	<u>Proposed Allotment</u>
Atlantic, Iowa	279C	239C3
Glenwood, Iowa	----	279C

Respectfully submitted,

WIRELESS COMMUNICATIONS CORP.

By: 
Barry A. Friedman, P.C.
Semmes, Bowen & Semmes
Suite 900
1025 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 822-8250

Dated: December 19, 1994

Exhibit A

WHEELER - BROADCAST CONSULTING
3718 W. 52nd Terrace - Shawnee Mission KS 66205

Allocation Study
Atlantic, IA

REFERENCE		DISPLAY DATES
41 24 22 N	CLASS C3	DATA 06-27-94
95 00 42 W	Current rules spacings	SEARCH 07-18-94
----- CHANNEL 239 - 95.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
KOAKFM	237C3	Red Oak	IA	200.7	45.07	43.0	2.07 <
CPM CN	41 01 35	95 12 05	20.500 kW	111M	28.0	26.7	
Montgomery County B/Casting C					BMPH921214IF		
>From channel 237A per D89-174							
KQWCFM	239C3	Webster City	IA	40.5	155.11	153.0	2.11 <
LI CN	42 28 04	93 47 48	25.000 kW	100M	96.4	95.1	
Gorich Radio Corporation					BLH910522KA		
KOAKFM	237A	Red Oak	IA	201.3	46.42	42.0	4.42
LI CN	41 01 00	95 12 46	3.000 kW	38M	28.9	26.1	
Montgomery County B/Casting C					BLH790904AF		
>*To channel 237C3 per D89-174							
KEFM	241C	Omaha	NE	249.9	108.32	96.0	12.32
LI CN	41 04 15	96 13 30	100.000 kW	439M	67.3	59.7	
Webster Communications Compan					BLH860430KF		
KGLI	238C1	Sioux City	IA	319.0	163.20	144.0	19.20
LI CN	42 30 53	96 18 13	100.000 kW	274M	101.4	89.5	
Cardinal Communications, Inc.					BLH6140		
KAANFM	238C2	Bethany	MO	150.5	146.65	117.0	29.65
LI CN	40 15 23	94 09 23	50.000 kW	108M	91.1	72.7	
Jerrell A. Shepherd					BLH890313KD		

CERTIFICATE OF SERVICE

I, Barry A. Friedman, do hereby certify that I have, on this 19th day of December, 1994, served a copy of the foregoing "Comments and Counterproposal" upon the following party by first-class mail, postage prepaid:

John M. Pelkey, Esq.
Susan H. Rosenau, Esq.
Haley, Bader & Potts
Suite 900
4350 North Fairfax Drive
Arlington, Virginia 22203